12: Haar S-4 (1939) 1948 OBI Indonesia OBI
● Makassar OG6
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Celebes OG1

holds the title to it usually has no claim to reimbursement for the use of it; not even if there is a later divorce.

Statements are frequently made about marriage property in terms of the burden of proof in case of controversy: "the possessions are owned in common, unless it is proved that the wife does not do the housekeeping." This may have a confusing effect. Actually, the determination of burden rests on the question of what is normal. And what is in conflict with the normal must be proved in each particular instance.

While the marriage continues, the spouses each deal with the common possessions within his or her normal sphere. In the case of important transactions, they sometimes act together. But if the husband takes action, the consent of the wife is presupposed and the act is valid, even though he has not consulted her. If, however, the wife should openly oppose one act or another, then the husband cannot act alone, save in case of necessity. Third parties have to take this into account. The same thing is true in the incurring of debts. Obligations entered into by the husband or wife must be met as family obligations through utilization of their common property. Such debts are recoverable from this property, and if their joint property is inadequate, the "asal" possessions of the person who incurred the debt must be used. In Macasser, "asal" (sisila-) property may even be set aside for joint debts, in preference to the common property. But the "asal" possessions of a deceased person cannot be so used. If a husband or wife should have individual debts, such as premarital debts, then those debts are recoverable, in the first place, from the "asal" property of the party concerned, and, in the second place, from the common property in its entirety. There is no such thing as an undivided share of the husband or of the wife in the common property during the marriage. Therefore, seizure of an undivided share for the collection of a debt is an absurdity, according to adat law principles and practice. While a marriage exists, the estate cannot be divided against the will of the parties concerned.

Division of marital property comes into play primarily in case of dissolution of marriage. If it is not evident that one of the spouses has so misbehaved that every claim to a part of the possessions has been forfeited, or that the wife relinquished her share as indemnification for repudiation (pages 181, 183), each of the spouses usually takes his or her "asal" possessions and possibly his or her share in the common matrimonial property. This common